



General Assembly

January Session, 2015

## ***Substitute Bill No. 6808***



### ***AN ACT CONCERNING THE ENFORCEMENT OF CERTAIN OCCUPATIONAL LICENSING STATUTES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 20-341 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2015*):

3 (a) Any person who wilfully or negligently engages in or practices  
4 the work or occupation for which a license is required by this chapter  
5 or chapter 399b without having first obtained an apprentice permit or  
6 a certificate and license for such work, as applicable, or who wilfully or  
7 negligently employs or supplies for employment a person who does  
8 not have a certificate and license for such work, or who wilfully and  
9 falsely pretends to qualify to engage in or practice such work or  
10 occupation, including, but not limited to, offering to perform such  
11 work in any print, electronic, television or radio advertising or listing  
12 when such person does not hold a license for such work as required by  
13 this chapter, or who wilfully or negligently engages in or practices any  
14 of the work or occupations for which a license is required by this  
15 chapter after the expiration of such person's license, shall be guilty of a  
16 class B misdemeanor, except that no criminal charges shall be  
17 instituted against such person pursuant to this subsection unless the  
18 work activity in question is reviewed by the Commissioner of  
19 Consumer Protection, or the commissioner's authorized agent, and the  
20 commissioner or such agent specifically determines, in writing, that  
21 such work activity requires a license and is not the subject of a bona

22 fide dispute between persons engaged in any trade or craft, whether  
23 licensed or unlicensed. Notwithstanding the provisions of subsection  
24 (d) or (e) of section 53a-29 and subsection (d) of section 54-56e, if the  
25 court determines that such person cannot fully repay any victims of  
26 such person within the period of probation established in subsection  
27 (d) or (e) of section 53a-29 or subsection (d) of section 54-56e, the court  
28 may impose probation for a period of not more than five years. The  
29 penalty provided in this subsection shall be in addition to any other  
30 penalties and remedies available under this chapter or chapter 416.

31 (b) (1) Whenever any person is found in violation of the provisions  
32 of this section, the appropriate examining board and the  
33 Commissioner of Consumer Protection, either jointly or separately,  
34 shall, within forty-eight hours, issue a cease work order to the person  
35 responsible for the violation and deliver such order to such person.  
36 Such order shall require that any person working at the site without  
37 the required license or certificate cease work and leave the site  
38 immediately. A copy of the order shall be given to the board if issued  
39 by the commissioner, and to the commissioner if issued by the board.  
40 The board and the commissioner, either jointly or separately, may  
41 request that the local building official issue a cease work order in  
42 accordance with the provisions of subsection (c) of section 29-261, or  
43 may notify the local building official of the action taken by the board  
44 or department.

45 (2) Any person issued a cease work order pursuant to this  
46 subsection may request a hearing before the commissioner and the  
47 board. Such request shall be made in writing to the commissioner not  
48 more than ten days after the issuance of such order. Such hearing shall  
49 be conducted in accordance with the provisions of chapter 54.

50 [(b)] (c) The appropriate examining board [or] and the  
51 Commissioner of Consumer Protection, either jointly or separately,  
52 may, after notice and hearing, impose a single civil penalty for each  
53 violation on any person who (1) engages in or practices the work or  
54 occupation for which a license or apprentice registration certificate is

55 required by this chapter, chapter 394, chapter 399b or chapter 482  
56 without having first obtained such a license or certificate, or (2)  
57 wilfully or negligently employs or supplies for employment a person  
58 who does not have such a license or certificate or who wilfully and  
59 falsely pretends to qualify to engage in or practice such work or  
60 occupation, or (3) engages in or practices any of the work or  
61 occupations for which a license or certificate is required by this  
62 chapter, chapter 394, chapter 399b or chapter 482 after the expiration of  
63 the license or certificate, or (4) violates any of the provisions of this  
64 chapter, chapter 394, chapter 399b or chapter 482 or the regulations  
65 adopted pursuant thereto. Such penalty shall be in an amount not  
66 more than one thousand dollars for a first violation of this subsection,  
67 not more than one thousand five hundred dollars for a second  
68 violation of this subsection and not more than three thousand dollars  
69 for each violation of this subsection occurring less than three years  
70 after a second or subsequent violation of this subsection, except that  
71 any individual employed as an apprentice but improperly registered  
72 shall not be penalized for a first offense.

73 [(c)] (d) If an examining board or the Commissioner of Consumer  
74 Protection imposes a civil penalty under the provisions of subsection  
75 [(b)] (c) of this section as a result of a violation initially reported by, a  
76 municipal building official in accordance with subsection (c) of section  
77 29-261, the commissioner shall, not less than sixty days after collecting  
78 such civil penalty, remit one-half of the amount collected to such  
79 municipality.

80 [(d)] (e) A violation of any of the provisions of this chapter shall be  
81 deemed an unfair or deceptive trade practice under subsection (a) of  
82 section 42-110b.

83 [(e)] (f) This section shall not apply to any person who (1) holds a  
84 license issued under this chapter, chapter 394, chapter 399b or chapter  
85 482 and performs work that is incidentally, directly and immediately  
86 appropriate to the performance of such person's trade where such  
87 work commences at an outlet, receptacle or connection previously

88 installed by a person holding the proper license, or (2) engages in work  
89 that does not require a license under this chapter, chapter 394, chapter  
90 399b or chapter 482.

91 Sec. 2. Subsection (a) of section 21a-8 of the general statutes is  
92 repealed and the following is substituted in lieu thereof (*Effective*  
93 *October 1, 2015*):

94 (a) The Department of Consumer Protection shall have the  
95 following powers and duties with regard to each board or commission  
96 transferred to the Department of Consumer Protection under section  
97 21a-6:

98 (1) The department shall control the allocation, disbursement and  
99 budgeting of funds appropriated to the department for the operation  
100 of each board or commission transferred to said department.

101 (2) The department shall employ and assign such personnel as the  
102 commissioner deems necessary for the performance of each board's or  
103 commission's functions.

104 (3) The department shall perform all management functions,  
105 including purchasing, bookkeeping, accounting, payroll, secretarial,  
106 clerical, record-keeping and routine housekeeping functions.

107 (4) The department shall conduct any necessary review, inspection  
108 or investigation regarding qualifications of applicants for licenses or  
109 certificates, possible violations of statutes or regulations, accreditation  
110 of schools, disciplinary matters and the establishment of regulatory  
111 policy, and make recommendations to the appropriate board or  
112 commission. In connection with any such investigation, the  
113 Commissioner of Consumer Protection, or the commissioner's  
114 authorized agent, may administer oaths, issue subpoenas, compel  
115 testimony and order the production of books, records and documents.  
116 If any person refuses to appear, to testify or to produce any book,  
117 record or document when so ordered, a judge of the Superior Court  
118 may make such order as may be appropriate to aid in the enforcement

119 of this section.

120 (5) The department shall administer any examinations necessary to  
121 ascertain the qualifications of applicants for licenses or certificates and  
122 shall issue licenses or certificates to qualified applicants. The  
123 department shall maintain rosters of licensees or registrants and  
124 update such rosters annually, and may provide copies of such rosters  
125 to the public for an appropriate fee.

126 (6) The department shall conduct any necessary investigation and  
127 follow-up in connection with complaints regarding persons subject to  
128 regulation or licensing by the board or commission.

129 (7) The department shall perform any other function necessary to  
130 the effective operation of the board or commission and not specifically  
131 vested by statute in the board or commission.

132 (8) The department shall receive complaints concerning the work  
133 and practices of persons licensed, registered or certified by such boards  
134 or commissions and shall receive complaints concerning unauthorized  
135 work and practice by persons not licensed, registered or certified by  
136 such boards or commissions. The department shall distribute monthly  
137 a list of all complaints received within the previous month to the  
138 chairperson of the appropriate board or commission. The department  
139 shall screen all complaints and dismiss any in which the allegation, if  
140 substantiated, would not constitute a violation of any statute or  
141 regulation. The department shall distribute notice of all such  
142 dismissals monthly to the chairperson of the appropriate board or  
143 commission. The department shall investigate any complaint in which  
144 the allegation, if substantiated, would constitute a violation of a statute  
145 or regulation under its jurisdiction. In conducting the investigation, the  
146 commissioner may seek the assistance of a member of the appropriate  
147 board, an employee of any state agency with expertise in the area, or if  
148 no such member or employee is available, a person from outside state  
149 service licensed to perform the work involved in the complaint. Board  
150 or commission members involved in an investigation shall not

151 participate in disciplinary proceedings resulting from such  
152 investigation. The Commissioner of Consumer Protection may dismiss  
153 a complaint following an investigation if the commissioner determines  
154 that such complaint lacks probable cause. Notice of such dismissal  
155 shall be given only after approval by the appropriate board or  
156 commission. The commissioner may authorize a settlement if the  
157 settlement is approved by the complainant, the practitioner, and the  
158 board or commission. [The] In cases that are not dismissed and for  
159 which settlement is not authorized, the commissioner [may] shall bring  
160 a complaint before the appropriate board or commission for a formal  
161 hearing if the commissioner determines that there is probable cause to  
162 believe that the offense alleged in the complaint has been committed  
163 and that the practitioner named in the complaint was responsible. The  
164 commissioner, or the commissioner's authorized agent, shall have the  
165 power to issue subpoenas to require the attendance of witnesses or the  
166 production of records, correspondence, documents or other evidence  
167 in connection with any hearing of a board or commission. All  
168 dispositions and final decisions by the Department of Consumer  
169 Protection after an investigation into a complaint has begun shall be  
170 forwarded to the chairperson of the appropriate board or commission  
171 on a monthly basis.

172 (9) The department may contract with a third party, if the  
173 commissioner deems it necessary and if the appropriate board or  
174 commission consents, to administer licensing examinations and  
175 perform all attendant administrative functions in connection with such  
176 examination and to monitor continuing professional education  
177 requirements, and may require the payment of a fee to such third  
178 party.

179 Sec. 3. Section 21a-9 of the general statutes is repealed and the  
180 following is substituted in lieu thereof (*Effective October 1, 2015*):

181 (a) With regard to the boards and commissions within the  
182 Department of Consumer Protection, the Commissioner of Consumer  
183 Protection, after consulting with the boards and commissions, (1) shall

184 adopt uniform rules of procedure, consistent with chapter 54, for  
185 hearings and other proceedings to be conducted by the boards or  
186 commissions or by the commissioner and for the giving of notice to  
187 persons affected by such proceedings, and (2) may, where authorized  
188 by statute, adopt regulations regarding any subject within the  
189 jurisdiction of a board or commission.

190 (b) Any rules of procedure and regulations adopted pursuant to this  
191 section shall be adopted in accordance with chapter 54. No regulation  
192 shall be adopted pursuant to this section until the appropriate board or  
193 commission has had reasonable opportunity to review the proposed  
194 regulation and to offer comments thereon.

195 (c) Each such board or commission may act in accordance with the  
196 provisions of subdivision (7) of section 21a-7, and the commissioner  
197 may act in accordance with the provisions of subdivision (3) of  
198 subsection [(b)] (c) of section 21a-8, in the case of a practitioner who:  
199 (1) Engages in fraud or material deception in order to obtain a license,  
200 registration or certificate issued by the board or commission or to aid  
201 another in obtaining a license, registration or certificate issued by the  
202 board or commission; (2) performs work beyond the scope of the  
203 license, registration or certificate issued by the board or commission;  
204 (3) illegally uses or transfers a license, registration or certificate issued  
205 by the board or commission; (4) performs incompetent or negligent  
206 work; (5) makes false, misleading or deceptive representations to the  
207 public; (6) has been subject to disciplinary action similar to that  
208 specified in subdivision (7) of section 21a-7 or subdivision (3) of  
209 subsection [(b)] (c) of section 21a-8 by a duly authorized professional  
210 agency of the United States, any state within the United States, the  
211 District of Columbia, a United States possession or territory or a  
212 foreign jurisdiction; or (7) violates any provision of the general statutes  
213 or any regulation established thereunder, relating to the practitioner's  
214 profession or occupation.

215 (d) As used in chapters 390, 391, 392, 393, 394, 396, 400g, 400j, 482  
216 and 400l:

217 (1) "Certificate" includes the whole or part of any Department of  
 218 Consumer Protection permit which the department issues under  
 219 authority of the general statutes and which (A) authorizes practice of  
 220 the profession by certified persons but does not prohibit the practice of  
 221 the profession by others, not certified, (B) prohibits a person from  
 222 falsely representing that such person is certified to practice the  
 223 profession unless the person holds a certificate issued by the  
 224 department, and (C) requires as a condition of certification that a  
 225 person submit specified credentials to the department which attest to  
 226 qualifications to practice the profession.

227 (2) "License" includes the whole or part of any Department of  
 228 Consumer Protection permit, approval, or similar form of permission  
 229 which the department issues under authority of the general statutes  
 230 and which requires (A) practice of the profession by licensed persons  
 231 only, (B) demonstration of competence to practice by examination or  
 232 other means and meeting of certain minimum standards, and (C)  
 233 enforcement of standards by the department or regulatory board or  
 234 commission.

235 (3) "Registration" includes the whole or part of any Department of  
 236 Consumer Protection permit which the department issues under  
 237 authority of the general statutes and which (A) requires persons to  
 238 place their names on a list maintained by the department before they  
 239 can engage in the practice of a specified profession or occupation, (B)  
 240 does not require a person to demonstrate competence by examination  
 241 or other means, and (C) may be revoked or suspended by the  
 242 commissioner for cause.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2015	20-341
Sec. 2	October 1, 2015	21a-8(a)
Sec. 3	October 1, 2015	21a-9



**Statement of Legislative Commissioners:**

In section 1(b)(1) "permit" was deleted and "board or" was inserted before "department" for accuracy and consistency.

**GL**            *Joint Favorable Subst. -LCO*